

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of an Investigation into  
Qwest's Obligation to Unbundle its  
Network to Permit Line Sharing Over  
Fiber-Fed Loops.<sup>[1]</sup>

**RECOMMENDATION TO GRANT  
MOTION TO TERMINATE DOCKET**

The above-entitled matter came before Administrative Law Judge Steve Mihalchick for evidentiary hearings on October 28-31, 2002, in the Large Hearing Room of the Minnesota Public Utilities Commission Suite 350, Metro Square, 121 Seventh Place East, St. Paul, Minnesota. The final post-hearing submission was filed on December 16, 2002.

On February 20, 2003, prior to any report being issued by the Administrative Law Judge, the Federal Communications Commission announced a decision in its Triennial Review proceeding that incumbent LECs were not required to unbundle hybrid loops. Since that decision appeared to resolve the issues in this matter, and after consultation with Commission staff, the Administrative Law Judge did not complete the report and awaited the FCC's written order. The Triennial Review Order was issued August 21, 2003, and confirmed the announced decision on hybrid loops.<sup>[2]</sup>

On February 5, 2004, DIECA Communications, Inc., d/b/a Covad Communications Company (Covad), filed a Motion to Terminate Docket. Covad noted that this matter had been initiated at its request to determine whether line sharing over fiber loops equipped with digital loop carrier facilities (hybrid loops) should be treated and priced as a single network element. Covad stated that it was no longer seeking a determination of those issues at this time.

All parties and interested persons were notified by the Administrative Law Judge that any responses to the motion should be filed by February 21, 2004. Only the Department of Commerce and Qwest Corporation filed responses. Both supported Covad's motion.

**NOTICE**

Notice is hereby given that pursuant to Minn. Stat. § 14.61, and the Rules of Practice of the Public Utilities Commission and the Office of Administrative Hearings, exceptions to this report, if any, by any party adversely affected must be filed within twenty days of the mailing date hereof or such other date as established by the

Commission's Executive Secretary or as agreed to by the Parties with the Commission's Executive Secretary.

Questions regarding filing of exceptions should be directed to Dr. Burl Haar, Executive Secretary, Public Utilities Commission, Suite 350 Metro Square, 121 Seventh Place East, St. Paul, Minnesota 55101. Exceptions must be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted to all parties adversely affected by the ALJ's recommendation who request such argument. Such request must accompany the filed exceptions or reply, and an original and 14 copies of each document should be filed with the Commission.

The Public Utilities Commission will make the final determination of the matter after the expiration of the period for filing exceptions as set forth above, or after oral argument, if such is requested and had in the matter.

Further notice is hereby given that the Commission may, at its own discretion, accept or reject the Administrative Law Judge's recommendation and that this recommendation has no legal effect unless expressly adopted by the Commission as its final order.

Based upon the record, the Administrative Law Judge makes the following

### **RECOMMENDATION**

IT IS RESPECTFULLY RECOMMENDED that the Commission **GRANT** the Motion to Terminate Docket of DIECA Communications, Inc., d/b/a Covad Communications Company.

Dated: March 1, 2004

s/Steve M. Mihalchick

STEVE M. MIHALCHICK

Administrative Law Judge

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<sup>[1]</sup> This is the docket title used by the Commission in its March 13, 2002, Notice and Order for Hearing. In previous orders issued by the ALJ this matter has been called, *"In the Matter of the Request of Covad to Define and Price a Line Sharing over DLC UNE to be offered by Qwest."*

<sup>[2]</sup> Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Released August 21, 2003, ¶¶ 288-295.